

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

JUL 26 2006

Case No. 55412
Date Filed 5/16/06
Hearing Date _____
Receipt _____
Fee \$400.00

Shaded Areas for Office Use Only

Type of Application

- ☐ Administrative Decision/Interpretation
☒ **Special Exception**
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☐ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code _____

CASE 5542 MAP 47 TYPE Special Exception

ELECTION DISTRICT 04 LOCATION 2407 Baldwin Mill Road, Fallston 21047

BY Donald and Carroll Hess

Appealed because a Special Exception pursuant to Section 267-53H(6) to allow professional services in the VR District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Donald St. Clair Hess Phone Number (410) 207-7722

Address 2304 Watervale Rd., P. O. Box 165 Fallston MD 21047
Street Number Street City State Zip Code

Co-Applicant Carroll Windle Hess Phone Number (443) 927-4405

Address 2407 Baldwin Rd. Fallston MD 21047
Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative Albert J.A. Young Phone Number (410) 838-5500

Address 200 S. Main Street Bel Air MD 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property 2407 Baldwin Mill Rd.

Fallston, MD. 21047

Subdivision N/A

Lot Number _____

Acreage/Lot Size 1.736

Election District 04

Zoning VR

Tax Map No. 47

Grid No. 1B

Parcel 376

Water/Sewer: Private ☒

Public ☐

List ALL structures on property and current use: _____

Estimated time required to present case: 1 hour - without opposition

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☒

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

Request

Approval of special exception for professional services in the Village

Residential Zone pursuant to Code Section 267-53(H)(6).

Justification

SEE ATTACHED

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

JUSTIFICATION:

The subject property is located in an area which was formerly a rural crossroads known as "Upper Crossroads". As the County has grown and developed, the area has taken on the character of a rural village, as is reflected by the zoning and the uses surrounding the property. The subject property is zoned Village Residential and is bordered by properties on the south and west which are zoned Village Business, on the east by other Village Residential property and across the street by property zoned B1. The subject property is one property removed from the intersection of Maryland Routes 152 and 165. This intersection is improved by a shopping center, a former WaWa convenience store location redeveloping into a gourmet deli and the former location of an Exxon service station. To the southwest of the property is the village sometimes known as "Scarff" which houses DiPasquale's, a gourmet Italian deli and liquor store, as well as a flooring services company, an office building, hair studio and other Village Business uses. The subject property is essentially part of an island, triangular in shape, buffered by Maryland Routes 152, 165 and Scarff Road. It is noteworthy that the adjacent Village Residential zoned property to the east was previously approved for a special exception to allow a dental office in a Village Residential district, as set forth in Board of Appeals Case No. 4269, (a copy of the decision is attached hereto).

Harford County Zoning Ordinance Section 267-53(H)(6) provides that professional services: "may be granted in the VR district provided that: (a) A buffer yard of ten feet is provided between the parking area and any adjacent residential lot. (b) Gross floor area shall not exceed 5,000 square feet."

The Applicant can comply with both Code requirements. The proposed use will be housed within the existing improvements containing 1,798 square feet. The only adjacent residential lot is the parcel which previously received special exception approval in Case No. 4269. Parking for the subject property is located on the opposite side of the property from the adjacent residential lot. Therefore, there is a significant barrier between the parking for the proposed site and the adjacent residential lot – several hundred feet, far in excess of the required 10 feet.

The Applicant seeks approval for professional services generally prior to the identification of a specific tenant in order to enhance the marketability of the property. Site plan approval will still be required through the Development Advisory Committee. Any use will be subject to review and approval by County agencies, including the Department of Planning and Zoning. Any specific concerns related to the site plan or impact of a particular user can be addressed at that time. The nature of the use for professional services will not generate significant impacts on traffic, noise, environmentally sensitive features or cause any adverse impact to adjacent properties.

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING AND ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

October 26, 2006

STAFF REPORT

BOARD OF APPEALS CASE NO. 5542

APPLICANT/OWNER: Donald St. Clair Hess
2304 Watervale Road, P.O. Box 165, Fallston, Maryland 21047

Co-APPLICANT: Carroll Windle Hess
2407 Baldwin Mill Road, Fallston, Maryland 21047

REPRESENTATIVE: Albert J. A. Young
200 S. Main Street, Bel Air, Maryland 21014

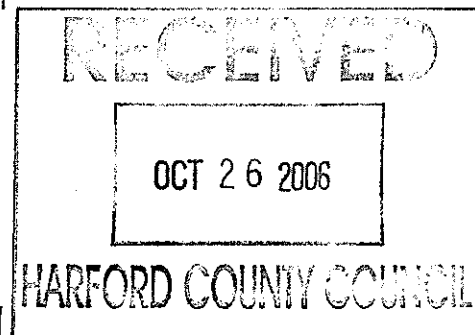
LOCATION: 2407 Baldwin Mill Road
Tax Map: 47 / Grid: 1B / Parcel: 376
Election District: Fourth (4)

ACREAGE: 1.736 acres

ZONING: VR/Village Residential

DATE FILED: May 16, 2006

HEARING DATE: November 6, 2006



APPLICANT'S REQUEST and JUSTIFICATION:

Request:

"Approval of Special Exception for Professional Services in the Village Residential Zone pursuant to Code Section 267-53H(6)."

Preserving Harford's past; promoting Harford's future

MY DIRECT PHONE NUMBER IS (410) 638-3103

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THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

Justification:

See Attachment 1.

CODE REQUIREMENTS:

The Applicant is requesting a Special Exception pursuant to Section 267-53H(6) of the Harford County Code to allow Professional Services in the VR/Village Residential District.

Section 267-53H(6) of the Harford County Code reads:

- (6) *Professional services. These uses may be granted in the VR District, provided that:*
- (a) *A buffer yard of ten feet is provided between the parking area and any adjacent residential lot.*
 - (b) *Gross floor area shall not exceed five thousand square feet.*

Enclosed with the report is copy of Section 267-51 and 267-52 of the Harford County Code (Attachment 2).

Section 267-9I of the Harford County Code will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants property is located in the western area of the County. The lot is situated on the south side of Fallston Road (Md. Route 152) and the north side of Old Fallston Road/Scarff Road. The property is approximately 200± feet southeast of Baldwin Mill Road (MD Route 165). A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 3 and 4).

The property is located outside of the Development Envelopment. The property is within the Village of Upper Cross Roads. The predominant land use designations in this area of the County are Agricultural, Rural Residential and Rural Village. The Natural Features Map reflects Agricultural Preservation Districts and Easements, Sensitive Species Project Review Areas, Rural Legacy Easements and Stream Systems. The subject property is within the Rural Village designated which is defined by the 2004 Master Plan as:

***Rural Villages** – Areas of concentrated residential, commercial, and institutional uses located within the agricultural and rural residential areas that support the character and economy of the surrounding communities by providing necessary goods and services.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

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Land Use – Existing:

The existing land uses in this area of the County conform to the overall intent of the Master Plan. The area contains a mix of residential, retail, service and agricultural uses. Other land uses include schools, churches and the Fallston fire substation. The topography for the area ranges from rolling to steep especially near the stream valleys. Enclosed with the report is a copy of the topography map and the aerial photograph (Attachments 7 and 8).

The parcel is a rectangular shaped property approximately 1.736 acres in size with frontage on two roads, Fallston Road (Md. Route 152) and Old Fallston Road now referred to as Scarff Road. Access to the property is from Baldwin Mill Road (MD Route 165) across the adjacent property. The adjacent property contains a bank. The topography of the property ranges from level to rolling except along the Fallston Road right of way where it is somewhat steep. Improvements consist of a stone one story single family dwelling. There is a sunroom extension off the rear and a two car attached garage on the right side of the dwelling. The house faces Fallston Road (MD Route 152). The existing driveway provides access to the existing garage and also extends down to the rear of the dwelling and the basement entrance. Other improvements consist of an existing barn and a one car block garage that appears to cross over the property line. The existing driveway was shown on the plat for the bank property recorded in 1974 (Attachment 9). Site photographs along with an enlargement of the aerial photograph are enclosed with the report (Attachments 10 and 11).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. There are large areas of AG/Agricultural and RR/Rural Residential zoning. Within the Village Center there is VR/Village Residential, VB/Village Business and B1/Neighborhood Business Districts. The subject property is zoned VR/Village Residential as shown on the enclosed copy of the Zoning Map (Attachment 12).

SUMMARY:

The Applicant is requesting a Special Exception pursuant to Section 267-53H(6) of the Harford County Code to allow Professional Services in the VR/Village Residential District.

Section 267-53H(6):

(7) *Professional services. These uses may be granted in the VR District, provided that:*

- (a) *A buffer yard of ten feet is provided between the parking area and any adjacent residential lot.*

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Donald and Carroll Hess

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The land uses adjoining to the west side are a bank and an office. These properties are zoned VB/Village Business. The property adjoining on the east side is zoned Village Residential and is used residentially. The improvements on the subject property are located to the western side of the property approximately 220 feet from the adjacent dwelling. A buffer yard can easily be established along the eastern property line.

The adjacent property to the east received a special exception approval in Case No. 4269 (Attachment 13), to allow a dental office in the VR/District which was approved by the Hearing Examiner in May of 1992. That approval has expired.

(b) Gross floor area shall not exceed five thousand square feet.

The Applicants state that the proposed professional service will only utilize 1,798 square feet.

Section 267-9I:

(1) The number of persons living or working in the immediate area.

A professional service use as proposed would be compatible with the surrounding neighborhood. The Rural Village of Upper Cross Roads contains retail and service uses. A professional service use should not have an adverse impact on the immediate neighborhood.

(2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.

The site plan shows the entrance from MD Route 165 across the adjoining property. The Department recommends that a new access be created from Scarff Road where the property has direct road frontage.

(3) The orderly growth of the neighborhood and community and the fiscal impact on the county.

Professional Service uses are permitted in the VR/Village Residential District with Board of Appeals approval. The Applicant can meet and/or exceed the Code requirements established for this use. The proposal is compatible with the neighborhood and the orderly growth of the neighborhood. The request will not have an adverse fiscal impact on the County.

(4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.

The proposed use should have no impact on the surrounding community pursuant to the issues listed in this section.

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- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. The Fallston and Jarrettsville Volunteer Fire Departments will provide the primary fire protection and emergency assistance to the site. A company of the Applicant's choice will handle trash collection.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The use is consistent with generally accepted planning principles and practices. The use is permitted in the VR/District with Board of Appeals approval and the Applicant can comply with the Code requirements for the intended use.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

The proposal should have no impact on any of the uses listed in this subsection.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposal is consistent with the 2004 Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

The proposed use will have no additional impacts on the surrounding natural features.

- (10) *The preservation of cultural and historic landmarks.*

There does not appear to be any cultural and/or historic landmarks in the immediate area that would be impacted by the proposed use.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be approved subject to the following conditions:

1. The approval is limited to a professional service use.

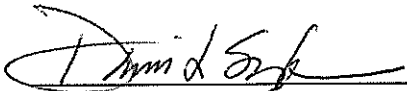
STAFF REPORT

Board of Appeals Case Number 5542

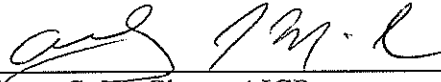
Donald and Carroll Hess

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2. The Applicants shall submit a detailed site plan to be approved thru the Development Advisory Committee (DAC). The site plan shall clearly show an acceptable parking area.
3. The Applicants shall provide a landscaped buffer yard along the easterly property line. A landscaping plan shall be submitted to the Department of Planning and Zoning for review and approval.
4. Access to the property shall be from Scarff Road. The driveway shall be a minimum of 20 feet wide to provide for two-way traffic.
5. Applicants shall obtain all necessary permits and inspections for the conversion of the dwelling.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/dm